

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FLETCHER H. HYLER, et al.,)	
)	
Plaintiff(s),)	No. C 06-6805 BZ
)	
v.)	ORDER SCHEDULING COURT TRIAL
)	AND PRETRIAL MATTERS
BEARINGPOINT, INC.,)	
)	
Defendant(s).)	
)	
)	

Following the Case Management Conference, **IT IS HEREBY ORDERED** that the Case Management Statement is adopted, except as expressly modified by this Order. It is further **ORDERED** that:

1. DATES

Trial Date: **Monday, 7/14/2008, 7 days**

Pretrial Conference: **Tuesday, 6/24/2008, 4:00 p.m.**

Last Day to Hear Dispositive Motions: **Wednesday, 5/21/2008**

Last Day for Expert Discovery: **Friday, 4/11/2008**

Last Day for Expert Disclosure: **Friday, 4/4/2008**

Close of Non-expert Discovery: **Friday, 3/28/2008**

2. DISCLOSURE AND DISCOVERY

1 The parties are reminded that a failure to voluntarily
2 disclose information pursuant to Federal Rule of Civil
3 Procedure 26(a) or to supplement disclosures or discovery
4 responses pursuant to Rule 26(e) may result in exclusionary
5 sanctions. Thirty days prior to the close of non-expert
6 discovery, lead counsel for each party shall serve and file a
7 certification that all supplementation has been completed.

8 In the event a discovery dispute arises, **lead counsel** for
9 each party shall meet in person or, if counsel are outside the
10 Bay Area, by telephone and make a good faith effort to resolve
11 their dispute. Exchanging letters or telephone messages about
12 the dispute is insufficient. The Court does not read
13 subsequent positioning letters; parties shall instead make a
14 contemporaneous record of their meeting using a tape recorder
15 or a court reporter.

16 In the event they cannot resolve their dispute, the
17 parties must participate in a telephone conference with the
18 Court **before** filing any discovery motions or other papers.
19 The party seeking discovery shall request a conference in a
20 letter served on all parties not exceeding two pages (with no
21 attachments) which briefly explains the nature of the action
22 and the issues in dispute. Other parties shall reply in
23 similar fashion within two days of receiving the letter
24 requesting the conference. The Court will contact the parties
25 to schedule the conference.

26 3. MOTIONS

27 Consult Civil Local Rules 7-1 through 7-5 and this
28 Court's standing orders regarding motion practice. Motions

1 for **summary judgment** shall be accompanied by a statement of
2 the material facts not in dispute supported by citations to
3 admissible evidence. The parties shall file a joint statement
4 of undisputed facts where possible. If the parties are unable
5 to reach complete agreement after meeting and conferring, they
6 shall file a joint statement of the undisputed facts about
7 which they do agree. Any party may then file a separate
8 statement of the additional facts that the party contends are
9 undisputed. A party who without substantial justification
10 contends that a fact is in dispute is subject to sanctions. A
11 Chambers copy of all briefs shall be submitted on a diskette
12 formatted in WordPerfect 6.1, 8, 9, 10 or 13 (Windows), or may
13 be e-mailed to the following address: bzpo@cand.uscourts.gov.

14 4. ALTERNATIVE DISPUTE RESOLUTION

15 This case has been referred to the Court's ADR Department
16 for assignment to an ADR process of the parties' choosing or
17 that the department recommends. The ADR process should be
18 completed by October 30, 2007, if possible.

19 5. SETTLEMENT

20 This case has been referred for assignment to a
21 Magistrate Judge to conduct a settlement conference, to be
22 conducted in April or May 2008 if possible, in the event the
23 case is not resolved through the ADR Department. Counsel will
24 be contacted by that judge's chambers with a date and time for
25 the conference.

26 6. FIRST AMENDED COMPLAINT

27 Plaintiffs shall file a First Amended Complaint in this
28 case by no later than September 15, 2007.

7. PRETRIAL CONFERENCE

Not less than thirty days prior to the date of the pretrial conference, the parties shall meet and take all steps necessary to fulfill the requirements of this Order.

Not less than twenty days prior to the pretrial conference, the parties shall: (1) serve and file a joint pretrial statement, containing the information listed in **Attachment 1**, and a proposed pretrial order; (2) serve and file trial briefs, Daubert motions, proposed findings of fact and conclusions of law, and statements designating excerpts from discovery that will be offered at trial (specifying the witness and page and line references); (3) exchange exhibits, agree on and number a joint set of exhibits and number separately those exhibits to which the parties cannot agree; (4) deliver all marked trial exhibits directly to the courtroom clerk, Ms. Scott; (5) deliver one extra set of all marked exhibits directly to Chambers; and (6) submit all exhibits in three-ring binders. Each exhibit shall be marked with an exhibit label as contained in **Attachment 2**. The exhibits shall also be separated with correctly marked side tabs so that they are easy to find.

No party shall be permitted to call any witness or offer any exhibit in its case in chief that is not disclosed at pretrial, without leave of Court and for good cause.

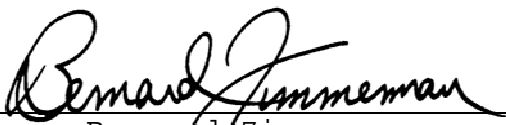
Lead trial counsel for each party shall meet and confer in an effort to resolve all disputes regarding anticipated testimony, witnesses and exhibits. Not less than ten days prior to the pretrial conference, the parties shall serve and

1 file any objections to witnesses or exhibits or to the
2 qualifications of an expert witness, and any oppositions to
3 Daubert motions. There shall be no replies.

4 All motions and proposed findings of fact and conclusions
5 of law, and trial briefs shall be accompanied by a floppy
6 diskette containing a copy of the document formatted in
7 WordPerfect 6.1, 8, 9, 10 or 13 (Windows), or may be e-mailed
8 to the following address: bzpo@cand.uscourts.gov.

9 At the time of filing the original with the Clerk's
10 Office, two copies of all documents (but only one copy of the
11 exhibits) shall be delivered directly to Chambers (Room 15-
12 6688). Chambers' copies of all pretrial documents shall be
13 three-hole punched at the side, suitable for insertion into
14 standard, three-ring binders.

15 Dated: August 1, 2007

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18 _____
Bernard Zimmerman
United States Magistrate Judge

ATTACHMENT 1

The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

(A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.

(B) Relief Prayed. A detailed statement of each party's position on the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of those damages.

(2) The Factual Basis of the Action.

(A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.

(C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.

(D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) Trial Preparation.

A brief description of the efforts the parties have made to resolve disputes over anticipated testimony, exhibits and witnesses.

(A) Witnesses to be Called. In lieu

1 of FRCP 26(a)(3)(A), a list of
2 all witnesses likely to be
3 called at trial, other than
4 solely for impeachment or
5 rebuttal, together with a brief
6 statement following each name
7 describing the substance of the
8 testimony to be given.

9 (B) Estimate of Trial Time. An
10 estimate of the number of court
11 days needed for the presentation
12 of each party's case, indicating
13 possible reductions in time
14 through proposed stipulations,
15 agreed statements of facts, or
16 expedited means of presenting
17 testimony and exhibits.

18 (C) Use of Discovery Responses. In
19 lieu of FRCP 26(a)(3)(B), cite
20 possible presentation at trial
21 of evidence, other than solely
22 for impeachment or rebuttal,
23 through use of excerpts from
24 depositions, from interrogatory
25 answers, or from responses to
26 requests for admission. Counsel
27 shall state any objections to
28 use of these materials and that
counsel has conferred respecting
such objections.

(D) Further Discovery or Motions. A
statement of all remaining
motions, including Daubert
motions.

(4) Trial Alternatives and Options.

(A) Settlement Discussion. A
statement summarizing the status
of settlement negotiations and
indicating whether further
negotiations are likely to be
productive.

(B) Amendments, Dismissals. A
statement of requested or
proposed amendments to pleadings
or dismissals of parties, claims
or defenses.

(C) Bifurcation, Separate Trial of
Issues. A statement of whether
bifurcation or a separate trial

1 of specific issues is feasible
2 and desired.

3 (5) **Miscellaneous.**

4 Any other subjects relevant to the trial of the action,
5 or material to its just, speedy and inexpensive determination.
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ATTACHMENT 2**USDC**

Case No. CV06-06805 BZ

JOINT Exhibit No. _____

Date Entered _____

Signature _____

USDC

Case No. CV06-06805 BZ

JOINT Exhibit No. _____

Date Entered _____

Signature _____

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Case No. CV06-06805 BZ

PLNTF Exhibit No. _____

Date Entered _____

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DEFT Exhibit No. _____

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